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Can we stop talking about Somali Piracy now?

A Personal Review of Somali Piracy Studies

Annual NEPS Lecture 2015 at Warwick University

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In May 2015 we observed the 3rd anniversary of the last Somali pirate hijack of a Western merchant vessel. Naval commanders and private security providers remind us that attacks still occur and that ship-owners must remain vigilant – yet the annual attack figures are in single digits. Is it time to stop talking about Somali piracy? It certainly seems a good time to review the literature on Somali piracy. The annual NEPS conference is a particularly good forum for such an endeavour, as the piracy literature is truly interdisciplinary, spanning economics, politics and international relations, area studies, sociology, law, anthropology and security studies.¹

This is not intended to be the complete and definitive review of the literature – but rather an eclectic review of what I found to be the most fascinating topics and puzzles posed by Somali piracy. There are many strands to piracy studies (also see Bueger 2014). Different questions were triggered in different “phases” of Somali piracy, and the time-line of Somali piracy explains the order of topics below. In the final section I offer an explanation of the overall pattern of the intensity of Somali pirate attacks.

In the beginning...

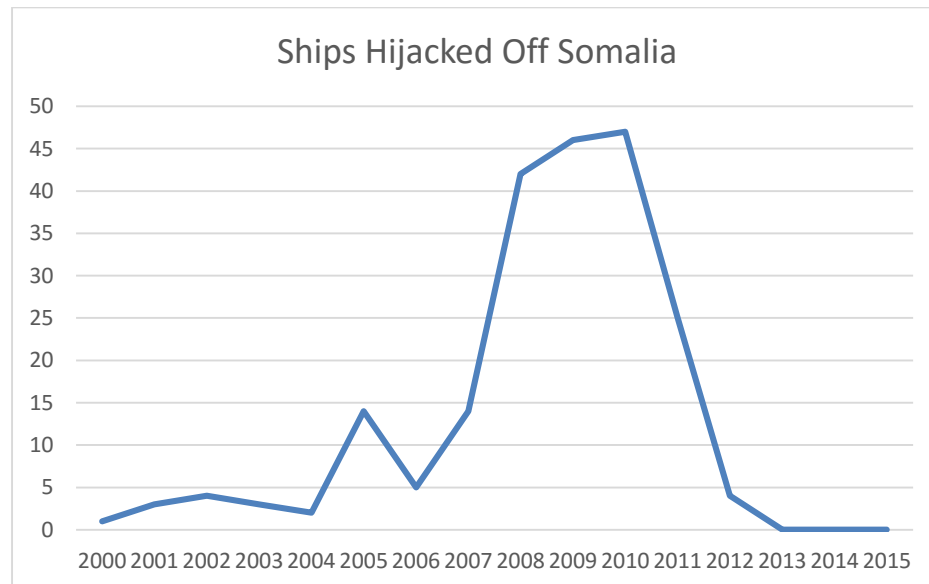
Somali piracy first came to public attention with the hijacking of the MV Faina on 25 September 2008. The Faina was a Ukrainian flagged vessel carrying Soviet-made tanks, heavy weapons and ammunition. It was highly undesirable that this cargo should reach Somali warlords or be traded in East Africa. Therefore the tense ransom negotiations which freed ship, crew and cargo were conducted under the watchful eye of naval forces - ready to prevent any attempt to unload any cargo – as well as the worlds’ media.

In fact, the hijack for ransom model of Somali piracy had long been developed on the Somali coast – something the shipping community and insurers were well aware of. A number of fishing and smaller merchant vessels had regularly been detained for relatively short periods of time and released for a few hundred thousand dollars – without damage to cargo or crew. Given the lack of a

¹ The piracy studies research portal covers the full range of output on the subject: <http://piracy-studies.org/about-new/>

maritime infrastructure for unloading cargo and limited opportunities to resell cargo locally, hijack for ransom was the only lucrative piracy business model available. The MV Faina incident and the subsequent rapid increase in (reported) hijackings triggered an academic debate on the “causes of piracy”.

Figure 1: Somali Pirate Hijacks 2000-2015 (EU NAVFor (from 2008) and IMO (2000-2008))



The Causes of Piracy

The academic research on the causes of (Somali) piracy broadly falls into 3 strands. The sociological / anthropological literature points out that there was nothing new about maritime crime in coastal Somalia. In the context of a failed state unable to enforce law and order, the line between “legal” and “illegal” is blurred. Commerce needs protection – and private providers were ready to supply it to those willing to pay for the service. The explanation for Somali piracy offered by this literature is that the traditional protection of fisheries turned into piracy.

Without a functioning government, there was no official body which could issue valid fishing permits, but foreign trawlers eyed Somalia’s fish-rich coastal waters with interest. Local clans therefore started to issue their own fishing licences and their clan militias offered a degree of protection to those who paid them to do so, while attacking those who had not paid or paid fees to someone else. Thus, trawlers often found themselves approached for protection payments by multiple clans. Fed up with being hassled, fishermen began to arm themselves. The outgunned self-appointed “coastguards” then went after unarmed merchant vessels instead. The pirate / coastguard narrative was born and subsequently invoked by countless pirates and their sympathizers. While this defence of piracy seems overstretched to the victims and most observers, it is certainly a narrative that had traction in Somalia, with its strong culture of private protection and suspicion of the motives of Western interventions in Somalia. (Dua 2013, Dua and Menkhaus 2013).

The concurrent political economy literature stressed the importance of the 2008 presidential election in Puntland to explain the sudden rise in piracy. In April 2008 the Puntland government

budget collapsed and the president became unable to pay police officers. At the same time key presidential candidates looked for financial support from their clans. For certain remote coastal communities piracy was the only lucrative source of income. The lack of law enforcement combined with piracy money being linked to regional politics created a permissive environment for developing hijack for ransom enterprises along the entire Puntland coast (Hansen 2009).

The economic causes of piracy literature based on empirical research identified poverty, unemployment and food price shocks as potential drivers of piracy – as well as “opportunity” in the form of access to busy anchorages, busy shipping lanes and (preferably) “chokepoints” where ships slow down (Hastings 2009, Coggins 2012, Bueger 2013, Jablonski and Oliver 2013). Key for the establishment of a piracy industry, however, is the absence of law enforcement which might interfere with the unloading / transshipment of cargo (where there is a maritime infrastructure) or ransom negotiations in the case of Somalia. However, the literature is split between those who argue that a degree of stability and governance is needed to make piracy function (the hump-shape hypothesis by de Groot et al 2012, Percy and Shortland 2012, Varese and Shortland 2014, 2015) and those who think that anarchy is good for piracy (Daxecker and Prins 2013).

Effectiveness of Counter-Piracy

The second theme of academic interest was triggered by the interaction between pirates, ship-owners and navies in 2008-2010. Reacting to the rising number of attacks in the Gulf of Aden in 2008, the international community jumped into action with UN resolution 1838. August 2008 saw the creation of the Maritime Patrol Area close to the coast of Yemen, which coincided with a massive burst in pirate activity in the “protected” transit corridor. This was partially remedied in the better-designed Internationally Recognised Transit Corridor (IRTC) in February 2009, but the puzzle remained: why did so many Somali pirates fail to respond to the naval presence? The first answer turned out to be that a transit corridor takes the guesswork out of piracy. Pirates in small skiffs had limited visibility and limited fuel. They basically had to wait in the rather broad shipping lanes for a likely target to come by. The narrow transit corridor concentrated shipping traffic, and the initial dog-leg design helpfully encouraged ships to slow down. With limited naval resources to protect the area, pirates took advantage of this helpful innovation... (Percy and Shortland 2013a, Shortland and Vothknecht 2011)

Added to this, naval enforcement was initially rather toothless – the much derided “catch-and-release” policy simply was not a deterrent to battle-hardened Somalis (Percy and Shortland 2013b). The European-led international naval coalition operating to European standards of human rights was not in a position to legally follow through from arrest to trial to imprisonment in a country which was not itself a dream destination for the average Somali pirate... Building the regional capacity to do so was a major and much commented upon undertaking, spawning a related literature in law (see Guilfoyle 2008, 2012 and 2013 for examples). However, over time the obstacles to successful prosecutions were overcome through regional agreements, prison building and staff training efforts. It was not easy to keep the right people imprisoned in a country where it is purely a matter of economic efficiency that a rich person would pay a poor stand-in to serve his sentence.... Even now it is largely the foot-soldiers of piracy which serve prison terms.

However, more countries joined the coalition of the willing in the Gulf of Aden and some applied more “robust” counter-piracy tactics. At this point we observed the classic criminal response to an increased probability of law enforcement and greater punishment: substitution (Enders and Sandler 1993). Pirates started to avoid the Gulf of Aden and moved to the Somali basin, operating at ever greater distances from Somalia in search of prey (Percy and Shortland 2013a, Shortland and Vothknecht 2011). The Somali Basin is too big for navies to provide speedy assistance. As long as the policy to leave pirates unchallenged as soon as they were on board and had a crew member under control was in place -- and piracy convictions were only possible if pirates were caught red-handed on a board a vessel -- piracy could still be undertaken with relative impunity – at least as long as vessels of certain nationalities were avoided.

Counter-piracy Studies

The international naval counter-piracy coalition itself then became an object of academic study. Operation Atalanta and EU NavFor were the first ever European joint military initiative and making this function became almost an end in itself. The NATO operation Ocean Shield operated alongside, with much overlap between the countries involved in both the NATO and the EU line-up. A further challenge was that the coalitions were soon joined by a number of countries which were not traditional allies, such as Russia and China. Successful counter-piracy by this joint military operation required information-sharing, but no-one shares high security information platforms with potential future enemies... The study of the compromises, technical developments and protocols for information-sharing and deconfliction between the various contributing parties is in itself a fruitful area of study (see Bueger 2013). Interviews with naval commanders suggested that navies were delighted by the opportunities afforded by piracy to practice international co-operation and diplomacy and reverse the “sea-blindness” which had threatened naval budgets, with suppressing piracy almost being a secondary issue or a desirable by-product (Percy and Shortland 2013b).

Cost of Somali Piracy

The wide range of navies converging on the Gulf of Aden and Somali Basin required some economic justification – were we shooting cannons at midges? Enter three different approaches for finding out. Oceans Beyond Piracy started an accounting exercise, asking industry experts to cost various anti-piracy measures in nine categories and simply adding up the results. Its first “Cost of Piracy” report in 2010 with its headline cost figure of “up to US\$12bn” delighted navies: piracy “mattered”. However, this was widely regarded as an overstated figure and the ensuing debate elicited more co-operation and consequently lower estimates for future years. Besley et al’s (2015) paper calculates the effect of piracy on the cost of shipping contracts in the dry bulk market, comparing routes exposed to piracy with unaffected routes. With an estimated increase in cost of 8-12% for routes affected by Somali pirates the headline figure is a welfare loss “in excess of \$630mn”. Finally the World Bank (Do 2013) weighed in, calculating the change in the total value of trade on piracy affected trade routes using a difference in differences approach. Its headline figure of US\$18bn (!), disproportionately borne by poor regional economies, motivated the World Bank’s drive for a land-based solution and justified naval measures in the meantime.

Ransoms

The next interesting development was the exponential rise in ransoms. From 2008 ransoms started to creep up. As in most ransom negotiations, pirates always started with a high initial ransom demand, which was bartered down over a period of a few weeks to settle at a reasonable level. However, ransom discipline was eroded, as well-off ship owners and governments realized that a premium ransom would result in a fast release. This is individually rational, given the cost of an additional day's delay in lost charter, deterioration of hull and cargo and the human cost of having a crew detained in Somalia. Yet – it does create an externality: pirates factor past ransoms for comparable ships into ongoing and future ransom negotiations. For each negotiation there was now a reference value, which would rise every time a new precedent was set (De Groot et al 2012). As ransoms rose, so did the duration of negotiations. Even well-off ship owners were tested on their reservation price over months, while poor ship-owners waited for years to dislodge pirates from their excessive expectations. There are still some “lost mariners” in Somalia – a group of Thai seafarers was released in 2015 after 5 years in captivity...

Land-based Counter-piracy

The lengthening of ransom durations also triggered academic research on the issue of land-based counter-piracy (Bueger et al 2011, Bueger 2012, Murphy and Saba 2011). The ability of pirates to tie up a multi-million dollar asset in plain view of the coast of “anarchic” Somalia was in itself an interesting puzzle. Who provided protection from opportunistic criminals and militias? Somali piracy only ever worked because of the active support of local communities and political elites. Research soon showed that pirates were “protected” by their own clans – but paid a high price for this protection. Research by Do (2013) and Shortland and Varese (2014, 2015) showed that local power-brokers were able to extract a significant share if not the majority of piracy profits through a mixture of fees, bribes, hiring out guards and charging extortionate prices for the food, fuel, drinks and drugs needed to sustain pirates during the long and boring ransom negotiations. It also appeared that the ultimate benefactors from providing “protection services” to pirates were not local: there was no evidence from satellite images that coastal communities experienced economic booms when harbouring pirates (Shortland 2012).

From this “protection model” of piracy the argument was born that we might engage with the “protectors” of piracy, rather than trying to buy off the pirates with alternative livelihoods projects – or appealing to their higher morals... As Bueger (2012) pointed out: it is difficult to verify *ex ante* whether a crew sets off to fish, smuggle or conduct piracy operations. By contrast, it is very easy to prove that a hijacked ship is moored right outside a village and is receiving supplies from points in its vicinity.

How exactly one would engage positively with the protectors – or how one would deal with Al-Shabaab, which had clear financial interests in the ships anchored at Harardheere – was unclear. The international community appears to have few financial instruments at its disposal which can be employed on a conditional basis. Approved funds have to be disbursed within the financial year and

ideally there would be a demonstrable result – e.g. a new well. Making disbursements conditional on there being no piracy was not an option. Shortland and Varese (2014) then pointed out that coastal communities with trading opportunities (i.e. those with a road and some maritime infrastructure) naturally take an anti-pirate stance. Would road-building solve the problem of piracy?

The Sudden Demise of Somali Piracy

Although the particulars of “engaging local stakeholders” remained hazy, the World Bank threw its weight behind the “state-building” approach to counter-piracy and launched its 2013 piracy report from the presidential compound in Mogadishu. Unfortunately it then had to face the fact that there had been no successful hijacking since the previous May. Piracy had simply stopped. What would piracy experts make of the end of Somali piracy? The German proverb “success has many fathers...” springs to mind, as navies, private security providers and NGOs engaged in land-based counter-piracy initiatives claimed victory (see Bueger 2015). Given that navies had not been effective without the help of private security and that seafarers were still held hostage in 2015 despite the best efforts of NGOs to change local attitudes to piracy suggests that private security companies played a key role in the demise of Somali piracy...

Explaining the Overall Pattern of Somali Piracy

Now that the data are in – is there an overarching narrative about Somali piracy? The first thing to note is that the pattern of Somali piracy is different from the patterns of piracy elsewhere. Firstly, the Somali peak piracy surpasses others in intensity. In many areas piracy is a persistent nuisance, booms in piracy are rare. Where booms have occurred piracy was “stabilized” at a nuisance level, rather than eliminated.

To explain this specific pattern we need to introduce a new player into the set-up of pirates, ship-owners, navies, private security companies and coastal communities. Where there is a risk of piracy which is financially costly to resolve, there will be a demand for and a supply of special risk insurance. Insuring ships for piracy itself is optional – but purchasing insurance for the “total constructive loss” of the ship is mandatory - as is insuring the cargo and crew. Insurers therefore have an interest in ordering transactions in the piracy business: ensuring that the risk can be accurately priced, that commercial resolution involves a minimal risk to human lives and that total constructive loss of hull and cargo is avoided.

The supply of piracy can be explained in the framework of the Becker model of crime (Becker 1968). Criminals weigh up the expected pay-offs from engaging in a crime against the detection probability and the expected cost of punishment. In former times the punishment for pirates was clear: the death penalty was automatically applied to convicted pirates, if they were not killed in battle beforehand. The efficacy of the death penalty as a deterrent for piracy in combination with a significant detection probability was demonstrated in 2006 when the Union of Islamic courts invaded some pirate strongholds on the Puntland coast and threatened others: during this period piracy stopped completely.

Usually though, the non-violent Somali piracy model – where ship, crew and cargo were returned intact - ensured that ship-owners and insurers preferred a “commercial resolution” to a military response. Rather than risking crew, cargo and hull in a fire-fight, insurers and ship-owners preferred to pay a ransom which was a small proportion of the cost of inadvertently destroying the actual assets. Once pirates were in control of a ship, its owners preferred that law enforcement should stay away. This was clearly demonstrated to the population of the Puntland port of Bosasso from 28 October to 12 December 2007. US naval forces held off from engaging the pirates on the Golden Nori, but only prevented it from entering Bosasso harbour. Although the pirates did not manage to proceed to ransoming, they escaped unharmed – demonstrating that the death penalty for piracy no longer applied.

So while ship-owners and insurers lobbied for naval protection, they also undermined the effectiveness of the naval operation by preventing intervention against pirates who had successfully boarded ships. The rising detection probability could not outweigh this loss of deterrence – especially when unsuccessful pirates were delivered back onto Somali beaches, because the legal instruments for successful convictions were missing. Because piracy was still relatively rare compared to the total shipping traffic in the Gulf of Aden and the ransoming progress so reliable, insurers were happy to insure the risks, without asking ship-owners to change their behavior – for example by requiring investment in barbed wire, water cannons or other forms of non-violent resistance (Percy and Shortland 2013a).

The period of 2008-2009 could therefore be called a time of “Goldilocks” piracy: not too hot for ship owners to actually change their behavior and make private investments in counter-piracy, warm enough for navies to be involved and thereby change public perceptions about the usefulness of investing in naval capacity and still cold enough for insurers make a profit. However, as ransoms started to creep up and pirates were seen making supernormal profits new groups entered piracy... reinvesting profits and creating novel investment vehicles for locals to buy shares in piracy ventures.

Rising ransoms started a dynamic that would unravel the “insured” hijack for ransom model. Initially the ransoms expected by Somali pirates were easily affordable for all (involuntary) market participants – whether small merchants, trawlers or tankers. However, premium ransoms paid by rich and impatient ship-owners changed the expectation of pirates on what might be obtained with a bit more patience... so negotiation durations shot up. Negotiations stalled as pirates tested by how much ship owners would raise their offers. They thereby partitioned the market into the “haves” which paid large ransoms and the “have-nots”, who could only credibly signal their inability to pay by refusing to meet the pirates’ demand (Ambrus et al 2014).

With extended ransom negotiations Somali piracy ceased to be a risk which ship-owners could simply insure and go about their business normally. Insurance contracts specify a maximum ransom limit, meaning that ship-owners were only partially insured for premium ransoms. Ship-owners also have a duty of care towards their crews, and extended captivity endangers the crews’ lives. Moreover, an additional month of negotiation might only bring a small reduction in the final ransom – something that is difficult to justify to crew members or the media afterwards.

Although insurers were to some extent shielded from ransom inflation by the ransom limits in the insurance contracts, many were hit by the sudden increase in successful attacks. Insurers consequently were no longer able to price the risk of Somali piracy accurately and many claimed

they were making losses on hijack for ransom insurance (House of Commons 2012). This changed the attitude of insurers, who began to give discounts in insurance premia to ship-owners who followed Best Management Practice guidelines or – preferably - employed armed guards.

Although there is clear guidance that private armed guards should act proportionately in self-defence, there is evidence that at least some providers act relatively nervously to “suspicious approaches” – sometimes to the detriment of local fishermen. Going back to the Becker model of deterrence, the death penalty for attempted piracy has been reinstated by the back door. This outweighed the expected gains from piracy even if inflated ransoms could still be extracted. Moreover, under the extended ransom durations the pirates’ share of the ransoms cake diminishes as their guard, food and drugs bills mount. Under these conditions, piracy is no longer a source of super-normal profits.

Is this a stable equilibrium? Within the shipping community the cost of armed guards is an issue – and one that is especially pertinent when there are very few reported attacks in the region. It is likely that at some stage someone will relax their guard and be caught. Similarly, while the EU still maintains its naval presence, the intensity of the operation seems to have been quietly scaled down. The occasional opportunistic approaches of merchant vessels by Somali skiffs should be interpreted as “tests”... It also suggests that once ship-owners let down their guards the pirates still have a ransoming infrastructure in place.

But why have all recent attempts at piracy been met by armed resistance? Insurers seem to be the “sticking point” in preventing piracy returning to “normal” nuisance levels. Pirates cannot commit to occasional hijacks with fast, efficient commercial resolution at ransom levels which are affordable by all (i.e. without testing the true reservation price of the ship-owners in lengthy negotiations). Therefore piracy is not a hazard that can be profitably insured. Until we see big strides in law and order in Somalia, reducing the maximum holding times for hijacked ships to an acceptable level, insurers are likely to demand sufficient private counter-piracy efforts by ship-owners to prevent successful pirate hijacks.

Conclusions

Somali piracy has been a very rich seam for academic research. Somali pirates have taught us how to conduct a successful, credit-financed business in a failed state and that informal governance can create sufficient confidence to support long-range and long-term transactions. They have shown that they are rational and quick to respond to incentives and opportunities. They are not swayed by empty threats, however well-armed their opponents. This is good news for economics of crime, which would struggle with the analysis of drug-addled pirates...

Somali pirates have taught us much about bargaining under anarchy and asymmetric information. I am still puzzled by how exactly the low ransom equilibrium unraveled in Somalia. I am very intrigued by the governance of criminal markets and how the institutions which order transactions in these markets emerge. Probably there is little mileage in further research on the “causes of piracy” and the “cost of piracy” – even if in the latter case the estimates have spectacularly failed to converge. One would greatly welcome efforts in land-based counter-piracy efforts to offer non-criminal

economic opportunities to coastal communities in Somalia. I have a suspicion that the results will be unpredictable. They will make an interesting case study in how development initiatives designed in London or Washington translate into an environment where the lines between legal and illegal are so fluid.

Somali piracy has also spawned a huge counter-piracy industry and bureaucracy. Watching its evolution and the formal institution-building process to make it more effective has been most instructive. The counter-piracy institutions have so much momentum that they keep rolling on - almost regardless of the level of the underlying threat. The institutions themselves have become a worthy object of study and I am curious when they will finally unravel.

Can we stop talking about Somali piracy now? I think it would be a shame to do so.

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